

## MERCHANT ESTABLISHMENT AGREEMENT

This Merchant Establishment Agreement (“Agreement”) is made and executed at [●] on this [●] day of [●], [●] by and between **SBI Payment Services Private Limited**, having its registered office at State Bank Bhavan, 12<sup>th</sup> Floor, Nariman Point, Madam Cama Road, Mumbai-400021 and having one of its office at 35, The Arcade, World Trade Centre, Cuffe Parade, Mumbai- 400005 ( “SBI Payments”, “SBI” or “Bank”) AND \_\_\_\_\_, having its registered office at \_\_\_\_\_ (“Merchant”).

The Merchant is in the business of providing merchandise/services to customers and is desirous of enabling its customers to use the services under the system of Card Organization(s) and is desirous of being approved as an establishment for the purpose of payment processing of transactions made by any Valid Card / State Bank Buddy (State Bank Buddy)/State Bank Bharat QR and the Bank has agreed to provide certain services to the Merchant at its registered office/branches under the system of Card Organization on the terms:

### DEFINITIONS:

“**Billing Currency**” means the currency in which the bills are raised by the issuing bank for transactions made by use of the card.

“**Buddy (State Bank Buddy)**” means the mobile wallet of the State Bank of India through which several functions viz. Recharge, Pay Bills, Send Money etc. can be performed and where SBI PoS is enabled to receive payments from customers through State Bank Buddy.

“**Business Activity**” - trading activity in products/goods/services engaged by the Merchant at the time of Merchant Boarding.

“**Card Member**” or “**Member**” - a person holding a Valid Card and making payment using a Valid Card.

“**Customer**” - a person making payment using a Valid Card, State Bank Buddy or Bharat QR.

“**Card Organization/Card Scheme**” includes VISA, MasterCard, Rupay (NPCI) , AMEX and any other card organization acceptable to SBI presently or in future, offering credit, debit or any other card programme to Issuers.

“**Cash @ PoS**”/ “Cash Withdrawal at PoS” - payment of cash by the Merchant to the card member as per RBI guidelines.

“**Chargeback**” - a dispute raised by the Issuer, if it determines that the transaction was processed in violation of the rules listed out in Visa / MasterCard /Rupay guidelines.

“**Charge Slip**” - the form generated in accordance with the Merchant Operating Instructions using the Point of Sale terminal provided /approved by SBI to the Merchant after swiping the Valid Card to enable the Merchant to record charges.

“**Cut-Off Time**” - the time which the ME is required to perform the end of the day settlement of the transactions in Indian Rupees.

“**Dynamic Currency Conversion (DCC)**” - the facility provided by the Bank allowing the cardholder to pay for the transactions in the Billing Currency or the local currency.

“**Inactive Merchant**” - a Merchant at whose location no transaction has occurred at the PoS terminal continuously for three months.

“**Issuer**” - a licensee of a Card Organization issuing a Valid Card.

“**Merchant Boarding**” - acceptance of the Merchant enrolment by the Bank for installation of PoS terminal.

“**Merchant Account**” - running account without debit/credit restrictions opened by the Merchant with SBI for payments and other transactions between SBI and the Merchant and which SBI may debit / credit in terms of this agreement.

“**Merchant Discount Rate (MDR)**” - rate as set out in Annexure C to this Agreement and charged by the Bank in consideration of providing the services herein.

“**PCIDSS**” - Payment Card Industry Data Security Standard being an information security standard defined by the Payment Card Industry Security Standards Council.

“**Point of Sale Terminal (PoS)**” - any equipment or device provided by SBI to facilitate acceptance of payment by means of cards.

“**Retrieval Request**” - a request made by the Issuer to obtain details of the transactions.

“**Rules**” - rules and regulations that are promulgated, imposed or adopted by Card Organization(s)/Bank/RBI/NPCI etc., and as they may from time to time be amended.

“**State Bank Bharat QR**” refers to QR code based solution provided by SBI to its merchants for payment from their Customers by scanning of QR code using Bharat QR customer app.

“**Transaction or Charge**” - an act between a Card Member and the Merchant for the payment by a Card Member to the Merchant towards the Card Member’s purchase of merchandise/goods or services from the Merchant resulting into a valid host response (authorization/ decline/ referral etc.) through either Card or State Bank Buddy or by scanning of State Bank Bharat QR.

“**Transaction Rate**” - the exchange rate made available at the time of Transaction by the Bank to the cardholder through the merchant establishment for the purpose of calculating the relevant Billing Currency.

“**Valid Card**” - a credit or debit or other card issued by an Issuer or a Card Organization: (a) which is permitted by SBI for Transaction(s), (b) bears Card Organization’s logo, hologram and name of the Issuer and such other details as may be stipulated by SBI, (c) has not expired, (d) bears the signature of the person whose name is embossed on the card, (e) is not mutilated, altered or damaged and (f) is not listed in any alert by the card schemes.

“**Valid Charge**” - a charge which is charged to the holder of a Valid Card on a Charge Slip relating to a payment to be made by the cardholder to the Merchant bearing an imprint of a Valid Card and bearing the same signature as that on the Valid Card, which charge slip is generated in accordance with the Merchant Operating Instructions using the PoS provided/approved by SBI to the Merchant after swiping a Valid Card.

“**VISA/MasterCard/RuPay Dispute Resolution Rules**” - rules defined and amended from time to time provided in the websites of Card Schemes i.e. VISA, MasterCard, RuPay, AMEX etc. for settlement of disputes raised by the Issuer.

**1. MERCHANT’S OBLIGATIONS:** The Merchant hereby agrees and undertakes that: (a) all transactions will be in INR unless otherwise agreed in writing; (b) to pay the Bank all expenses incurred by the Bank for repairing/replacing equipment damaged as a result of improper/mishandling by it; (c) to bear the cost of electricity consumed by the equipment and telephone /GPRS charges payable in connection with the equipment; (d)

to honour and accept every Valid Card /State Bank Buddy/State Bank Bharat QR when properly presented for payment by a Card Member for a Transaction; (e) to not discriminate against, or discourage use of any Valid Card in favour of any other card that is accepted by the Merchant or any other payment mode; (f) to not levy any charges on the Customer for permitting the Customer to use a valid card/Mobile Wallet/ State Bank Bharat QR nor place any minimum transaction limit; (g) after ensuring that the card is a Valid Card, swipe/dip/tap the card on the PoS terminal, enter the details of the transaction as displayed and ensure that Reserve Bank of India guidelines for card present scenario which requires entering of PIN are followed; (h) obtain signature of card member on the Charge Slip/Mobile Device in case of Mobile Point of Sale terminal and verify the same with the signature on the back of Valid Card. For photo card, Merchant shall verify the photograph on the card matches with the card holder. For international/foreign card transaction(s), Merchant shall ensure identity proof of the cardholder is verified and obtained; (i) retain the Charge Slip(s) and the bill(s)/invoice(s) for a period of 18 months from submission date and make available to SBI on request; (j) on request by Bank for a particular Charge Slip, hand over the same within three days. If on account of non-compliance the Bank incurs any loss, the same shall be made good by the Merchant inclusive of all charges, interest and costs; (k) to make best efforts to recover and retain any card in respect of which a request has been made by a Card Organization to recover the card or which the Merchant has reasonable grounds to believe to be counterfeit, fraudulent or stolen and promptly notify SBI of any such recovery and retention and to deliver the card to SBI / Card Organization within 24 (Twenty-Four) hours; (l) to permit SBI/ its representative for installation of the PoS terminal/device in the premises of the Merchant at the time of Merchant Boarding and for deinstallation of the PoS terminal in case of off board at the registered address herewith; (m) not to adopt unethical transaction practices like making transactions with its own card/State Bank Buddy/ State Bank Bharat QR making transactions without a valid purchase, etc; (n) not to shift the equipment from its designated location.

## **2. AUTHORISATION AND SUBMISSION OF CHARGES**

- (a) Authorization for charges shall be obtained by swiping/dipping the Valid Card using the PoS terminal (online authorization) provided /approved by SBI. Bank shall not be responsible for charges without authorization/printing of charge slip.
- (b) Merchant shall not split the swipe/transaction amount for a single purchase into 2 (Two) or more transactions/charge slips.
- (c) SBI reserves the right to refuse the charges if an authorization is declined/charge slip is not printed.
- (d) Merchant warrants that (i) no other Charge Slip has/ will be issued/ presented in respect of the same Transaction and (ii) the relevant Charge Slip is a genuine business Transaction undertaken by a Card Member using a Valid Card/State Bank Buddy/ State Bank Bharat QR in respect of which the Merchant has or will, duly discharge its obligations.
- (e) All transactions to be settled at the end of the same day but no later than the next day. Non-settlement of transactions beyond 3 days will attract a penalty of 0.50% over agreed MDR payable in terms of VISA/MasterCard/Rupay/AMEX guidelines.
- (f) Beyond 7 days, Merchant loses the claim on the unsettled amount unless due to software/hardware issues, it has lodged a complaint on the helpline number within one hour.
- (g) Period of unsettled transactions and interchange is subject to change as per Card Organization/Bank/RBI/Rupay, etc. and will be notified to the merchants.

## **3. PAYMENTS TO THE MERCHANT**

- (a) Bank shall pay net amounts (after applicable set offs), within agreed timelines (Annexure C) of receipt, payment for the relevant transactions equal to the total amount listed on the Charge Slip(s) less the applicable Merchant Discount Rate.
- (b) Where SBI believes that any charges have been negligently or fraudulently charged or it has reason to investigate, it is entitled to withhold payment pending resolution by the Bank, failing which, it shall be entitled not to pay the same.
- (c) Bank is entitled to set off a lien on the credit value in the account of the Merchant or the unsettled transactions in the event of failure by the Merchant in providing necessary valid proof of transaction to the Retrieval Request/Chargeback/Suspicious Transaction received from the Issuer through the Card Schemes (VISA, MasterCard, Rupay, AMEX etc.).

**4. ACCEPTANCE OF CHARGES WITH RECOURSE-CHARGEBACKS:** The Merchant agrees that any charges accepted by it, which prove to be uncollectable and were incurred in the following circumstances shall be the exclusive financial responsibility of the Merchant who agrees to the non-payment of such charges or the Chargeback debit of such uncollectable charges by SBI i.e. any charge which is not a Valid Charge, incurred outside the authorized territory, involves the forgery of Card Member's signature and/ or where the Bank reasonably believes to be irregular and/ or fraudulent, involves a Charge Slip which is incomplete or illegible as to Card Member's name, the number of the Valid Card or the signature of the card holder, without prior authorization of SBI, is for merchandising or services in an amount in excess of the advertised price, is with respect to which a Card Member refuses to pay because merchandising or services purchased were not delivered or are not as promised or the merchandise was defective/ services deficient in any respect subject to Card Schemes Dispute Resolution Rules or which Card Organization disputes or reports as a Retrieval Request/fraud/chargeback or any settlement received by SBI beyond 7 (Seven) days after a Card Member incurred the charges and were authorized by SBI or the card presented to the Merchant in respect of the transaction was listed in a Warning List or any other communication/ advice or there is a violation of the terms in relation to a Transaction or any Merchant Operating Instructions or Change of "Business Activity"/ "Business Name"/ "Business Location" without informing the Bank and acceptance of change by the Bank.

**5. INDEMNITY:** The Merchant will indemnify and keep indemnified, SBI Payments, its affiliates, and their respective directors, officers, employees and agents indemnified and harmless from and against any and all claims, Chargebacks, demands, action, suits or proceeding, liabilities, losses, costs, expenses, taxes, legal fees, fines, penalties or damages asserted against or incurred or suffered by SBI Payments on account of acts or omissions of the Merchant in connection with the sale of goods and/or services, the performance of this Agreement, breach of a contract or duty by the Merchant, misuse of the PoS terminal or other device provided/approved by SBI, Merchant's failure to observe any of the procedures, requirements or obligations to be complied with in accordance with the Rules/ regulations of any Card Schemes, negligence or fraud of any employee/contractor, etc. of the Merchant, any representations or warranties of the Merchant becoming false or untrue or on account of any dispute with any customer or other third party or due to any fines or other penalties resulting from non-completion or non-compliance of the PCIDSS validation program or any other security standards. This clause shall survive termination/ expiry.

## **6. POINT OF SALE TERMINALS:**

- (a) SBI may provide one or more PoS terminal(s), consumables and network access controllers and other devices to facilitate a Valid Card / State Bank Buddy/ State Bank Bharat QR Transactions at the premises or establishment of the Merchant.
- (b) Merchant agrees that PoS terminal/Bharat QR code shall be used exclusively at its premises/location for the sole purposes of facilitating Card/ State Bank Buddy/ State Bank Bharat QR transactions for purchase of goods/ services for which it has signed up.
- (c) Merchant agrees that PoS terminals, consumables, network access controllers and any other device/ item deployed/ provided by SBI are SBI's exclusive property and shall be surrendered on demand during the term or immediately upon termination or expiry in working condition and it shall not claim any right, title or interest in or to such PoS terminals, other devices or consumables provided.

- (d) Merchant is responsible for safekeeping/maintenance of the PoS terminal and all other devices/ items deployed/ provided by SBI and for the secrecy of any software and keys (embedded into the PoS terminal) and shall neither allow or facilitate any piracy, nor violate any copyright/ trademark relating to any software or other intellectual property rights.
- (e) Merchant shall ensure at all times during business hours at least two members of its trained staff are available to operate the PoS.
- (f) Merchant shall report any faulty or suspected fault in the operation of equipment within one hour from knowledge of the same.
- (g) Merchant shall not sell, assign, transfer, lease or otherwise dispose off nor mortgage, charge, hypothecate, create or permit to exist any liens or other security interests over any PoS Terminals or any other device/ materials deployed/ provided by SBI nor remove, conceal or alter any markings, tags or dates attached to the PoS Terminals or other devices or any part thereof indicating SBI's ownership of such PoS Terminals or devices nor allow SBI's right to access, repossess or dispose of the PoS terminals or any other device deployed or provided by SBI pursuant to this Agreement or otherwise to be encumbered in any way or otherwise jeopardized by any act or omission of the Merchant, its representatives or agents or other factor within Merchant's control nor Permit any third party to perform maintenance services on the PoS terminals or any other device deployed/ provided by SBI or effect modifications, enhancement or software/engineering changes to the PoS terminals or any other device deployed or provided by SBI, without the prior written consent of SBI or its authorization to its representatives nor alter, modify or otherwise in the programme in the PoS.
- (h) Terminals supplied by third parties under arrangement with SBI, prior approval from Bank is required where all cost and expenses relating to such terminals shall be borne by Merchant unless agreed by Bank in writing. Bank is not responsible for operation, maintenance and the ability of such terminals to communicate to its system and Merchant shall notify Bank at least 15 days prior to the termination/change in the arrangement with approved third party.
- (i) Any loss or damage from negligence or misuse of the PoS Terminal or any other device provided by SBI is to the account of Merchant and SBI may recover such losses from Merchant. Bank is entitled to set off such losses from the amounts due to Merchant or from the amounts in the accounts/deposits of Merchant with the Bank.
- (j) SBI reserves the right to withdraw at any time, the PoS terminals or any other device or consumables provided by SBI at any time from the location/premises of the Merchant, without assigning any reason and its decision shall be final.
- (k) Merchant shall permit the authorized representatives of SBI to carry out physical inspections or audits of the PoS terminals or any other device or consumables deployed or provided by SBI any anytime during business hours without notice.
- (l) Merchant shall bear the costs, charges and expenses for electric power or telephone lines or internet connection(s) required in connection with the PoS terminals or any other device deployed or provided by SBI.
- (m) Merchant shall pay charges as per Annexure C. If it fails to generate minimum volume of sales as decided by the Bank, service charge shall be recovered from Merchant from the settlement account/net credit proceeds in the subsequent month. In case Merchant notes any discrepancy, written notice shall be given within 7 days failing which Bank would assume that charges were correct.
- (n) The Merchant agrees to pay charges as per Annexure C and the Bank has the right to recover charges.
- (o) If hard copy is requested, Merchant may request their branch in writing for a charge which may be determined by the Bank. Transaction details to be provided to the Merchant within 15 Days of the subsequent Month.

#### **7. COMPLIANCE:**

- (a) The Merchant hereby agrees and confirms that 1) it is aware of and agrees to abide by all applicable laws including RBI regulations and Rules; and 2) SBI will be entitled to stipulate or amend, operating rules relating to (i) the Transactions contemplated by this Agreement; (ii) any services that may be rendered hereunder by SBI; (iii) any use, ownership or maintenance of the PoS terminals, devices and consumables provided by SBI; (iv) any other matter relating to use or authorization of the cards; or (v) any dealing with Card Members, and the Merchant will abide by such Merchant Operating Instructions as per Banks/Card Schemes/RBI requirements.
- (b) In the interest of security of card transactions, the Merchant shall comply with the PCIDSS standards/other security guidelines and all related costs shall be borne by the Merchant. The Merchant provide details of any service providers who facilitate transactions on their to SBI and their status of compliance (as applicable from time to time) if requested.
- (c) Merchant agrees that all payment processing effected on the PoS, installed in the premises of the Merchant, shall be deemed to have effected by the Merchant, its authorised employees/ agents and it shall not dispute, claim or deny the payment processing.
- (d) Merchant shall a) capture only the transactions done in its establishment in the equipment deployed; b) not deploy any other payment applications in the equipment which has the capacity to capture card number or card details except as agreed to by the Bank and shall not store the CVV number, PIN/ magnetic stripe data or other personal information of the card holder in any form; c) ensure that any software/ hardware utilized does not retain its original password and that all passwords are changed on a regular basis; and d) ensure that payment application software version used for processing card payments is PADSS (Payment Application Data Security Standard Council) approved and other global security standards for card present scenarios.
- (e) If Merchant suffers a data compromise, it shall provide all information/ assistance to the Bank to conduct the forensic analysis.

**8. CHEQUE CASHING, CASH ADVANCES AND/OR CASH REFUNDS:** No cash advances and/or cash refunds are permitted directly to Card Members. SBI will not be liable for such actions except for making transactions under Cash @ PoS. Disbursement to the maximum limit prescribed by RBI under the Cash @ PoS scheme at identified Merchant Establishments as per Annexure B (2).

**9. REPRESENTATIONS AND WARRANTIES:** Merchant represents, warrants and covenants that it is duly organized, validly existing and authorized to enter into this Agreement which constitutes valid, legally binding and enforceable obligations and there is no suit, action, litigation, investigation, claim, complaint or proceeding in progress or pending or threatened against or relating to it.

**10. TRANSFER OF OWNERSHIP:** Merchant will immediately notify SBI of any sale, assignment, lease or transfer in any way of the Merchant's establishment or business or all or a significant part of its assets.

**11. DISCLOSURE:** SBI will be entitled at any time to disclose any information concerning the Merchant to any party in connection with any card facility provided by SBI and this provision will survive any termination/ expiry of this Agreement.

**12. GOVERNING LAW / JURISDICTION:** This Agreement shall be governed by the laws of India. Any dispute or difference arising out of, in relation to or regarding this Agreement shall be subject to the exclusive jurisdiction of the courts at Mumbai.

**13. TERM AND TERMINATION:** The term of this Agreement shall commence on [●] (the "Effective Date") and shall continue in force unless otherwise terminated pursuant to the provisions herein (the "Term") and either Party may terminate this Agreement at any time for any or no reason

by giving a 30 (thirty) days' written notice to the other Party. SBI may immediately terminate this Agreement by serving notice if the Merchant commits a breach of this agreement or if it is an inactive merchant as per Banks evaluating criteria.

**14. CONFIDENTIALITY:** Neither Party shall, without the prior written consent of the other, use or disclose any information relating to any Transactions or any other critical information to any other person or otherwise use any information acquired by it in relation to the Card Members other than for the purposes of this Agreement, unless such information is required to be disclosed by a statutory or regulatory authority of competent jurisdiction. This confidentiality condition shall continue in during and after termination.

**15. PROMOTIONAL MATERIALS:** Merchant shall display Card Organization's and SBI's symbols, names and promotional materials on its premises/location, place(s) of business, establishment(s) provided by the Bank and for the information of the public during the Term. SBI is authorized to include Merchant's name in any catalogue or any other promotional material as may be prepared or produced by SBI pertaining to acceptance of Valid Cards or the sales, marketing or promotion of any service offerings.

**16. PoS FACILITY/MOBILE PoS:** Bank may provide GPRS enabled/Mobile PoS terminal. Rentals/ charges as per Annexure A/D or as amended are applicable and Merchant agrees that SBI may debit Merchant account to recover the applicable charges. Defaults in payments of rentals for two months will result in Bank being entitled to deactivate/ deinstall the terminal without notice and Merchant returning the terminal to the Banks representative failing which, Bank shall recover the cost of the Terminal from the Merchant.

**17. DYNAMIC CURRENCY CONVERSION:**

- (a) Bank may provide DCC facility if requested as per Annexure B (1). Merchant will settle DCC transactions on a daily basis initiating settlement procedure on the PoS. Subject to international payment schemes rules, all transactions will be processed as follows: (i) Bank shall pay Merchant as per Annexure B(1), the aggregate amount of the transactions in Local Currency in respect of all such Transactions submitted; (ii) Bank advises exchange rates to merchants through the Service Provider and Merchant updates exchange rates on a daily basis at the start of day; (iii) foreign card holder makes payment using his foreign card; (iv) Merchant swipes/dips card on DCC enabled terminal; (v) terminal identifies home currency of card and prompt for DCC service or showing the exchange rate and mark-up; (vi) on acceptance, Merchant completes the transaction after obtaining relevant proof of identification; (vii) Cardholder signs chargeslip to confirm transaction, and (viii) at end of day, Merchant performs settlement procedure.
- (b) Merchant shall assist the Bank in case of any requirement for disputed transactions and shall promote SBI DCC and ensure that its employees comply with the recommended good practice communicated by Bank to the Merchant.
- (c) Bank shall pay incentives if agreed in writing, of transaction value (less refunds) processed using SBI DCC facility in local currency.
- (d) Bank shall not be liable in the event of a failure/delay to process payments provided that such event may result from amendment, modification or mistreatment of DCC application/software by Merchant or functioning of DCC application/Software being affected due to other software/hardware and/or networks not provided/authorized by the Bank or Operating errors on the part of the Merchant, its employees or any third party or for any reasons which can be attributed to its or its employees negligent conduct.

**18. MISCELLANEOUS:**

- (a) This Agreement is non-assignable by the merchant. However, SBI may assign this Agreement at any time.
- (b) The Parties to this Agreement are independent contractors.
- (c) If any provision is determined to be unenforceable, the remaining provisions hereof shall remain unaffected, in full force and effect.
- (d) All rights and remedies shall be cumulative and may be exercised singularly or concurrently.
- (e) All terms that by their nature survive termination/ expiration shall bind the Parties following any expiration or termination.
- (f) The headings and sub headings are for convenience only and do not affect the meaning of the relative Section / Clause.
- (g) Any notice, direction or instruction shall be in writing and delivered by hand, post, cable, facsimile, email or telex to the merchant.
- (h) The Bank will exercise its discretion to allow or block specific transactions on its assessment of the risks involved.

**19. Cash@PoS FACILITY**

- (a) Minimum withdrawal amount is Rs.100/- and thereafter in multiples of Rs.100/- subject to maximum as decided by the Bank but not exceeding the limit set by the regulators.
- (b) Cash withdrawal scheme will be made available to all debit cards and prepaid cards issued in India and as directed by the Reserve Bank of India i.e. cards issued by State Bank group and other Banks as and when activated by respective issuers.
- (c) A convenience fee may be recovered by the respective card issuing Bank from the account of the card holder and the merchant shall not collect any charges from the cardholder.
- (d) The Cash@PoS facility is available irrespective of whether the card holder makes a purchase or not.
- (e) Merchant availing Cash@PoS service exclusively for Cash@PoS transactions will be charged as per Annexure B(2).
- (f) All display material provided with reference to the cash withdrawal facility will be displayed prominently in the premises.
- (g) The Bank reserves the right to withdraw the facility of cash withdrawal at its own discretion.